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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/223,875	12/31/1998	RICHARD C. FENWICK JR.	ONCO-003	4405

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EXAMINER

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/223,875	Applicant(s) FENWICK ET AL.	
	Examiner Reuben M. Brown	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5/4/2005, regarding 102(e) rejection have been fully considered and are not persuasive. On page 3 and throughout applicant's response, it is argued that Hwang does not read on the claimed feature of, 'assigning an assignable computing device to the particular user only', since Hwang discloses that the Channel-processor can "receive and handle eight telephone communications", col. 19, lines 15-17. On page 6 of the response, applicant also points to col. 6, lines 11-24 of Hwang, which reads, "Even though, the Channel-processor can only generate one private-viewing interactive TV channel for one user to enjoy, it is not cost effective to reserve one Channel-processor for only one user, ... it is recommended that each Channel-processor be not only shared but also concurrently controlled by 8 users..".

Thus applicant interprets the above citation to read that Hwang discloses that the Channel-processor maintains the one private-viewing session, for one user, and simultaneously maintains group-viewing session of up to eight users. However, examiner respectfully disagrees with this interpretation. A careful reading of the above-cited passage in Hwang does not find support for such an enablement. Hwang merely states that it is not cost effective when the Channel-processor is operating a private-viewing session, (since only one user is being served,

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instead of at least up to eight), and recommends that the group viewing mode be used instead. But Hwang does not state that the Channel-processor concurrently provides a private-viewing session, as well as the group-viewing session.

Nevertheless, in the previous Office Action, examiner pointed out that even if Hwang were construed to provide the Channel-processor with the ability to concurrently maintain its one and only one private-viewing session, along with the group-viewing sessions; that any instant in time that the Channel-processor was in fact maintaining the one and only one private-viewing session, and when there are no requests for the otherwise group-viewing session from no other subscribers, then Hwang meets the claimed subject matter. This is true, since the claims do not recite any particular length of time the ACD is assigned to the one particular user only. For instance, when a particular Channel-processor is maintaining its one and only one private-viewing session, and there are no other outstanding requests from other users, such as for the group viewing sessions, then Hwang meets the claimed limitations at that instant.

In the previous Office Action, examiner also asserted that, the claimed 'assignable computing device', is broad enough to read on the private viewing session or channel, in Hwang, which is clearly assigned to one and only one particular user at a time, col. 16, lines 5-10. Applicant responds on page 3 by disagreeing with this assertion, and citing examples of assignable devices in the instant specification. However, it is pointed out that clearly, each Channel-processor is enabled to maintain one and only one private viewing session at a time, and thus whatever device(s) within the Channel-processor that supports the private-session, reads on

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the claimed assignable computing device. For instance as examples of an ACD, applicant's cite personal computer, which is broad enough to read on a microcontroller and the memory used to store instructions for operating the microcontroller. Nevertheless, the ACD is not limited to being a personal computer. Therefore, the device(s) within the Channel-processor that provides the private-viewing channel to the particular user, which are clearly dedicated to the particular user, reads on the claimed ACD.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Hwang, (U.S. Pat # 6,049,823).

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Considering claim 1, the claimed method of presenting an audiovisual signal to a user's audiovisual display monitor comprising receiving a command from the user and responding to the command by assigning an assignable computing device to the particular user only is met by the disclosure of Hwang that when a viewer requests a private session, the system allocates a particular Channel-Processor to that user, col. 13, lines 40-61 & col. 17, lines 15-40. Hwang teaches that each private viewing session requires a dedicated Channel-Processor for each customer.

As for the additionally claimed feature of establishing a communications link between the user's audiovisual device and the ACD, the above disclosure of Hwang reads on the subject matter; also see col. 16, lines 5-8.

The Channel-processor in Hwang reads on an ACD, since it is disclosed that it is a PC, see col. 4, lines 52-60 & col. 13, lines 1-5.

Regarding the feature of presenting a menu containing a selection of video programs to the user's audiovisual display monitor with the ACD, selecting one of the video programs and routing the instant selected video program to the user's audiovisual display monitor, Hwang teaches that once a private viewing session is activated, that the viewer is enabled to select and receive movies on demand from a menu, see col. 16, lines 61-67 & col. 17, lines 50-67 thru col. 18, lines 1-25. Hwang furthermore discloses that on a private viewing channel, the user can order any on-demand services for movies, games and shopping; see col. 1, lines 55-60.

Considering claims 2-3 & 17-18, Hwang teaches an MCI interface to play and control MPEG movies, such that the control panel may be overlaid on top of the movie; see col. 18, lines 5-24.

Considering claims 4-5, 10 & 19-20, Hwang teaches that video programming may be transmitted to viewers using well known RF modulation technology; see col. 6, lines 40-43; col. 9, lines 34-52 & col. 13, lines 64-67 thru col. 17, line 1.

Considering claims 6-8 & 21-23, Hwang teaches that the user may order currently available movies using a series of catalog pages; col. 1, lines 55-60; col. 17, lines 55-67 thru col. 18, lines 1-25.

Considering claims 9 & 24, the claimed feature of the menus reflecting a set of user preferences reads on the viewer's selection of catalog pages, for instance of categories when selecting movies; see col. 17, lines 55-60.

Considering claim 11, the recited subject matter is inherent in Hwang.

Considering claim 12, 15 & 25, the claimed host-computing device reads on the operation of the iTV server, col. 17, lines 15-61.

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Considering claims 13 & 26, the claimed step reads on the viewer selecting a different viewing mode and being assigned a different Channel-processor in Hwang, see col. 17, lines 1-25.

Considering claims 14 & 27, the claimed feature is broad enough to read on the customer tuning to a regular channel, before requesting a private viewing session.

Considering claim 16, the claimed apparatus for presenting an audiovisual signal to a user's audiovisual monitor, comprising a programming subsystem reads on the iTV stations in Hwang, col. 11, lines 4-24. The claimed Room Communication Subsystem, RCS reads on the operation of the iTV stations, (Fig. 3a; Fig. 5; Fig. 6a&b; col. 7, lines 22-45).

The claimed Site Management Subsystem, SMS also reads on the iTV station & iTV server; see Fig. 2.

As for the recitation of the programming subsystem including a plurality of serving devices communicating with the user's display monitor over the RCS; and the SMS assigning an ACD audiovisual serving device to a particular user to present a menu containing a selection of video programs to the particular user's display monitor over the RCS, the disclosure of Hwang teaches that a viewer may select a private viewing session to retrieve movies, such that the iTV server/stations assign particular Channel-processor to individual users during the private viewing sessions, (Abstract; col. 13, lines 18-54; col. 16, lines 1-10; col. 17).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Helland Teaches that application code in a server, is dedicated to one and only one user.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown


HAITRAN
PRIMARY EXAMINER